Civil Misc. App. No.2493/2006
R.S.R.T.C. ***Versus*** Mohanlal Nandwana & Ors.

Date of Order ::: 08/08/06

Hon'ble Mr. Justice Ajay Rastogi

Ms Shruti Pareek for appellant (owner)

Instant appeal has been filed by Corporation against Award dt.20/06/06 in MAC No.741/04 whereby Motor Accident Claims Tribunal (ADJ, Fast Track No.6) Jaipur City awarded compensation of Rs.4.16 lacs in favour of claimants for death of Smt. Pushpa devi who died on 11/12/2000 in motor accident which took place at crossing of Dudh Mandi when she was going from Zanana Hospital to her home in Jhotwara (Jaipur) on motor bike No.RJ14-29M-1732 which was hit by roadways Bus No.RJ18P-0737 coming from behind and being rashly & negligently driven by its driver.

Claimants are husband and four children of deceased Pushpa Devi aged 38 years. As alleged in claim petition, she was income tax payer and as per tax returns (Exs 8 to 19) furnished by her, was earning Rs.4,500/- per month from job work. After taking note of material on record, learned Tribunal considered the income of deceased as Rs.4,000/- per month based on her job work of stitching apparels and after 50% deduction towards her personal expenses, assessed Rs.2,000/- towards monthly financial support and her family welfare. After taking into consideration her age of 38 years, learned Tribunal applied multiplier of 16 and in all awarded compensation of Rs.4.16 lacs (including Rs.10,000/- for consortium to husband and Rs.5,000/- to each of her children and Rs.2,000/- for funeral expenses)

vide Award dt.20/06/06. Hence this appeal.

Counsel for appellant submits that vehicle with which accident took place had started from Sindhi Camp bus stand at 3.31 P.M. On the day of accident and as alleged, accident took place at 3.30 P.M. As such it was a false implication of vehicle with alleged accident. Counsel further submits that as per post mortem report, 42 years of her age was recorded while learned Tribunal considered her age of 38 years which was not supported by any material and accordingly committed an error in applying multiplier of 16 whereas as per her date of birth as mentioned in post mortem report, 15 is appropriate multiplier to be adopted for awarding just compensation. Counsel further submits that income referred to in income tax returns was not duly supported by any cogent material; what has been considered by Tribunal as her monthly income and what has been finally awarded by learned Tribunal requires interference by this Court.

I have considered contentions raised by counsel for appellant and with her assistance, examined material on record. Date of birth as per Pan Card and income tax return (Ex.8) was 01/07/1962 and proceeding on that premise, learned Tribunal considered her age of 38 years on the day of accident and merely because post mortem describes her age as 42 years, it could not have been considered to determine her actual age. I do not find any error in the finding recorded by learned Tribunal for holding her age as 38 years.

Next submission with regard to time of accident is without any merit and not supported by material on record. It is not the case of appellant

that vehicle was not plying on the road on the time and day when the accident took place. Merely because accident is said to have taken place at 3.30 P.M., or offending bus left the bus stand at 3.31 P.M., it does not mean that accident did not take place by offending bus, whereas after taking note of material on record including the fact admitted in the written statement to claim petition that the offending bus had passed through place of accident at about 4 P.M., on 11/12/2000 and so also the statement of driver (NAW1) about seizure of his bus at police station, where it was admittedly taken by him in order to save himself as the public was chasing the bus, learned Tribunal has held that the accident took place by offending bus. I do not find any error in the finding recorded by Tribunal.

So far as income of deceased is concerned, it is duly supported by tax returns (Ex.8 to 19) furnished by her and what has been awarded by Tribunal under all heads, in my opinion, being just does not require interference by this Court.

Consequently, this appeal fails and is hereby dismissed in limine.

(Ajay Rastogi), J.

K.Khatri/2493CMA2006.